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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/105,844	06/26/1998	USHA UPADHYAYULA	INTL-0055(P5)	6060
7590	07/22/2004		EXAMINER	
TIMOTHY N TROP TROP PRUNER & HU 8554 KATY FREEWAY STE 100 HOUSTON, TX 77024			ALAUBAIDI, HAYTHIM J	
			ART UNIT	PAPER NUMBER
			2171	
			DATE MAILED: 07/22/2004	30

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/105,844	UPADHYAYULA ET AL.	
	Examiner	Art Unit	
	Haythim J. Alaubaidi	2171	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 May 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 43-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 43-60 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 June 1998 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to the amendment (Appeal Brief) filed on May 21, 2004.
2. Claims 43-60 are currently presented for examination following the amendment.
3. Claims 43, 50 and 57 the independent claims.
4. The Examiner withdrew the 112 rejection as the Applicant amendment did overcome the rejection.
5. Claims 43-60, are rejected under 35 U.S.C. 103(a).

Response to Arguments

6. Applicant's arguments, see Appeal Brief filed on May 21, 2004, with respect to the Foreign Application Priority Date have been fully considered and are persuasive. The rejection of January 30, 2004 has been withdrawn.

Reopening Prosecution

7. The Examiner is reopening prosecution (see MPEP § 706.07); a Final Rejection was submitted in response to the Appeal Brief of May 21, 2004 due to Applicant's Amendment of October 06, 2003 that necessitated the Finality of this Office Action.
8. In view of the Appeal Brief filed on May 21, 2004 PROSECUTION IS HEREBY REOPENED.

Art Unit: 2171

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 43-60, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirowo Inoue (U.S. Patent No. 6,273,535 and Inoue hereinafter) in view of Gary Starkweather (U.S. Patent No. 5,694,227 and Starkweather hereinafter) and further in view of Yoshiki Ishii (U.S. Patent No. 6,477,318 and Ishii hereinafter).

Regarding Claims 43, 49, 50 and 56-58, Inoue discloses:
capturing an image in a digital imaging device (Figure 1; see also Col 3, Lines 67
through Col 4, Line 1) to form a graphical object (Col 2, Lines 5-18, i.e. image forming)
associating graphical object containing image data with said device
profile (Col 4, Lines 6-11), i.e.

The digital camera 1 **stores** (associate)¹ **input-device-unique information unique to the device** (device profile) in a status memory 4. Also, the digital camera 1 hotoelectrically converts an image into an electrical signal using a CCD and the like, **and holds a plurality of images as digital image data in an image memory 5** (image data).

see also (Col 4, Lines 11-19), i.e.

At the same time, the digital camera 1 **stores the input states of the individual images** (image data) held in the image memory 5 and **parameters of color processing** (device profile)² and the like executed in the digital camera in an image additional information memory 6 as image additional information 11. Such information is stored in a RAM or a nonvolatile RAM, or a magnetic storage medium or magnetooptical recording medium.

transferring said graphical object and associated device profile from said imaging device (Col 4, Lines 35-40).

¹ The Examiner is interpreting the "stores" feature in the Inoue reference as "associating" according to the Specification of the current Application (please see Disclosure, Page 4, Line 28).

² The Examiner would like to note that the "parameters of color processing" can also be interpreted to be like the device profile, considering Applicant's Specification of the current Application (please see Page 1, Lines 13-16).

Inoue reference discloses all of the claimed subject matter set forth above, except it does not explicitly indicate the step of developing a device profile based at least on the conditions of image capture; nor does it disclose the dynamic generation of the profile .

However Starkweather teaches developing a device profile based at least on the conditions of image capture³ (Col 2, Lines 19-21);

Given the intended broad application of Inoue system, it would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Inoue with the teachings of Starkweather to include developing a device profile based at least on the conditions of image capture. As in developing the device profile, Inoue reference suggest in a way, the consideration of "image condition" (Abstract, see also Col 5, Lines 18-20, i.e. ***color processing parameter 13-15 in the camera, as image sensing conditions***) yet the developing of a device profile was not based on the condition of the image capture, but instead was based on forming images (Col 20, Lines 43-45), hence one ordinary skill in the art would be motivated to combine the references in order to increase the flexibility of a device usage by increasing the compatibility of the device with other systems, such as other output devices.

The combination of both Inoue and Starkweather discloses all of the claimed subject matter set forth above, except it does not explicitly indicate the step of

³ Please note that Inoue does disclose the feature of having different lighting conditions for capturing an image (Col 20, Lines 55-61).

dynamically generating a profile. However Ishii discloses dynamically generating a profile (Abstract, i.e. dynamic image data; see also Col 1, Lines 11-16, i.e. an image recording device and method capable of optimum conversion processing of dynamic picture image data from an input device having variable characteristics, and to a computer-readable memory; see also Col 2, Lines 13-16, i.e. carrying out color management processing in the recording of dynamic image data to a medium; see also Col 3, Lines 38-40, i.e. As an example of color space characteristic data may be adduced profile data representing a conversion characteristic to a different color space).

Given the intended broad application of the combination of both Inoue and Starkweather, it would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of both Inoue and Starkweather with the teachings of Ishii to dynamically generate a device profile especially when using an input device that can generate dynamic image data such as a "video camera" (Ishii, Col 1, Lines 18-36, i.e. video camera; see also automatically; see also Col 4, Lines 6-18); one good reason would be to continuously (dynamically) view an output of the inputted image data on an output device such as, a display screen; also due to the high portability of video cameras the conditions of the image capture, such as the lighting conditions, i.e. indoor or outdoor that may change rapidly and to view the output of this video camera with a continuous clear display

Regarding Claims 44, 51 and 59, Ishii discloses:

storing portion of the associated profile information in a profile file (Col 8, Lines 4-24)

associating a file name with the profile (Figure 7 and corresponding text)

communicating the filename to the CMS (Col 8, Lines 4-24).

Regarding Claims 45, 52 and 60, Starkweather discloses storing a value representative of a color relation between an input color space and a profile color space (Col 7, Lines 38-42).

Regarding Claims 46-47 and 53-54, Starkweather discloses illuminant tag value and white point tag value (Col 7, Lines 22-57; specifically Lines 2-31; see also Col 6, Lines 11-18).

Regarding Claims 48 and 55, Starkweather discloses red, green and blue colorant tag values (Col 2, Lines 24-28).

Other Prior Art Made of Record

11. Kumada (U.S. Patent No. 6337922) discloses a Image process method, image process apparatus and storage medium;

McLaughlin et al. (U.S. Patent No. 5739809) discloses a method and apparatus for display calibration and control; and

Edgar et al. (U.S. Patent No. 5298993) discloses a display calibration.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

13. Applicant's amendment to the claims (see amendment October 17, 2003) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Points of Contact

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haythim J. Alaubaidi whose telephone number is (703) 305-1950. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any response to this office action should be mailed to:

The Commissioner of Patents and Trademarks, Washington, D.C. 20231 or telefax at our fax number (703) 872-9306.

Hand-delivered response should be brought to Crystal Park II, 2121 Crystal Drive, 6th Floor Receptionist, Arlington, Virginia. 22202.

Haythim J. Alaubaidi

Patent Examiner
Technology Center 2100
July 12, 2004

Frantz Coby
FRANTZ COBY
PRIMARY EXAMINER